

A1 30. (New) A method according to claim 22, wherein the plant to be tested is a crop plant.

31. (New) A method according to claim 22, wherein the plant to be tested is a transgenic plant.

### REMARKS

Claims 22 – 31 are in the case. Claims 1 – 21 were originally filed. Claims 20 – 21 were cancelled by preliminary amendment dated December 3, 1999. Claims 22 – 31 are added hereby.

On page 2 of the Official action, the Examiner notes a spelling error and makes reference to Rule 75(c) with regard to improper multiple dependencies. These formal matters are obviated by the foregoing amendment.

Original claims 1 – 3, 6, 8 – 11 and 13 – 14, now rewritten, were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. The Examiner makes a number of specific points to which Applicant responds below.

The expression “testing” has been removed from new independent claim 22, which now specifies that the claimed method is “for verifying the resistance status of a field-grown plant exhibiting a resistance phenotype”. It is further specified that the “progeny plant is treated with a pesticidal compound or a plant pathogen”

Extraneous periods have been removed from the Independent claim.

The Examiner further contends that it is unclear from original claim 1 what is propagated, the mother plant or the progeny plant. The amendment clarifies that it is the progeny plant that is propagated and incorporated into a screening program.

The Examiner considers the term “short” to be unclear. Newly presented claim 22 clearly defines a “short segment” as one that “comprises a short root and shoot fragment and is capable of directly regenerating into a whole and morphologically normal plant”.

The Examiner also considers the term “high” with respect to a plant region of actively dividing cells to be unclear. Newly presented claim 24 provides that one example of the region in question comprises meristematic cells. Since the amount of actively dividing cells in meristems are well characterized and known to those skilled in the art it is clear that the term “high” constitutes an amount at least as high as found in meristems.

Those skilled in the art will appreciate that a culture medium can be used as an anchorage material for , e.g., a short root or shoot fragment without conducting cell or tissue culture.

The term "explant" is no longer present in amended claims.

The term "concentration(s)" is amended to read "concentration".

Original claims 9, 11, 13, and 14 have been deleted.

Applicants aver that the foregoing amendments and explanations overcome the outstanding rejection under § 112, second paragraph. Accordingly, the Examiner is requested to reconsider and to withdraw the rejection.

Applicant respectfully traverses the § 102 rejections of the originally presented claims as being anticipated by Fehr or Samson.

More specifically, neither Fehr nor Samson teach a method as presented by instant claims 22 – 31. In particular, the cited references do not teach method for verifying the resistance status of a field-grown plant exhibiting a resistance phenotype which method involves exposing a population of plants to a pesticidal compound or a plant pathogen under field conditions;

(b) collecting those field-grown plants that exhibit a resistance phenotype under field conditions; obtaining plant cuttings from a mother plant collected in step (b) by;

(i) cutting a short segment from a mother plant such that said segment comprises a short root and shoot fragment and is capable of directly regenerating into a whole and morphologically normal plant,

(ii) directly transferring said excised segment to a suitable anchorage material; and

(d) asexually propagating progeny plant(s) from the plant cuttings obtained in step (c) without passing through a callus phase or involving cell or protoplast culture;

(e) incorporating the so obtained progeny plant into a plant screening program between about 7 days to about 14 days after obtaining the plant cuttings, wherein the progeny plant is treated with a pesticidal compound or a plant pathogen; and

(f) monitoring the progeny plant for resistance symptoms.

Accordingly, Applicant avers that the newly presented claims are not anticipated or made obvious by the teachings of Fehr or Samson and that the § 102 (b) rejections over such references have been overcome.

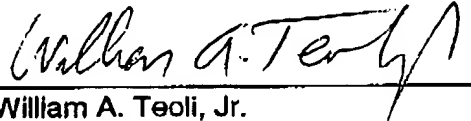
The original claims 8, 11 and 14 were rejected under § 103 as being obvious over the teachings of Fehr in view of Benson. Applicant respectfully traverses this rejection.

The deficiencies of Fehr are discussed above. Benson does not remedy such deficiencies. To the contrary, Benson is limited to the control of rhizoctonia stem rot of poinsettia during propagation with a fungicide. The combination as suggested by the Examiner simply does not teach or reasonably suggest the method as provided in the newly presented claims. Accordingly, there is insufficient evidence that the present claims are obvious. Applicant avers that the instant claims overcome the rejection under § 103 and are now in condition for allowance.

Applicant respectfully requests that the instant claims as now amended are in condition for allowance and respectfully requests the Examiner to find them allowable. If any fee is due in connection with this response, the Assistant Commissioner is authorized to charge Deposit Account No. 50-1676 in the name of Syngenta Crop Protection, Inc. for the appropriate amount.

Respectfully submitted,

Syngenta Crop Protection, Inc.  
Patent and Trademark Dept.  
410 Swing Road  
Greensboro, NC 27409  
(336) 632-7706

  
\_\_\_\_\_  
William A. Teoli, Jr.  
Attorney for Applicant  
Reg. No. 33,104

Date: January 27, 2003